

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

RODNEY WELLS, : **Civil Action**
Plaintiff, :
: **FILED**
v. : **APR 11 2011**
: **MICHAEL E. KUNZ, Clerk**
OFFICE of the DISTRICT ATTORNEY :
for PHILADELPHIA COUNTY, et al., :
Defendants. : **By _____ Dep. Clerk**
: **NO. 11-1929**

PRATTER, J.

April 11, 2011

MEMORANDUM

Plaintiff Rodney Wells is currently incarcerated. He seeks to bring a civil action alleging that he received a substantially longer criminal sentence than his co-defendants. He requests permission to pursue this claim without pre-paying the requisite filing fees.

Pursuant to 28 U.S.C. § 1915(g), a prisoner who, while incarcerated, has filed three or more actions in a federal court that have been dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted, must be denied in forma pauperis status unless he was in imminent danger of serious physical injury at the time that the newest complaint was filed. Abdul-Akbar v. McKelvie, 239 F.3d 307 (3d Cir.), cert. denied, 533 U.S. 953 (2001).

Mr. Wells does not allege, nor does anything in his latest complaint suggest, that he was in imminent danger of serious physical injury at the time this action was commenced. Prior to the filing of this case, Mr. Wells filed three civil actions or appeals which were dismissed as frivolous or for failure to state a claim upon which relief may be granted.¹

¹ In the United States District Court for the Eastern District of Pennsylvania, Civil Action No. 07-0743 was dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(i)-(ii), by order dated October 31, 2007 and Civil Action No. 06-1710 was dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B) (i)-(iii), by order dated May 17, 2006. Mr. Wells appealed the dismissal of the latter action, and the United States Court of Appeals for the Third Circuit dismissed Mr. Wells' appeal pursuant to 28

Accordingly, Mr. Wells' motion to proceed in forma pauperis will be denied.

BY THE COURT:



Gene E.K. PRATTER
UNITED STATES DISTRICT JUDGE

U.S.C. § 1915(e)(2), by order filed in the Court of Appeals April 20, 2007 in Civil Action No. 06-2860. These three dismissals of actions or appeals serve as Mr. Wells' "three strikes" under 28 U.S.C. § 1915(g). Ali v. Howard, et al., 353 F. App'x 667, 668 (3d Cir. 2009).